MT LEGISLATIVE HISTORY

Chapter 344 1975

Bill (H) 196 S _____ Original bill & hist. X C

H. Committee on Local Government

Hearing Date(s) Feb 01 ✓C
Feb 19 ✓C
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Date Out _____ ___C

S. Committee on Local Government

Hearing Date(s) Mar 11 ✓C
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Mar 13 ✓C
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Date Out Mar 13 ✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LC 0227

House BILL NO. 176 Williams

INTRODUCED BY Duke McKittrick, Driscoll, Melvin, Flynn, Kimball, Hockrem, Marks, Conroy, Haynes, Bradley, Barbour, Hager, Holmes

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE ALTERNATIVE FORMS OF LOCAL GOVERNMENT PARTIALLY IMPLEMENTING ARTICLE XI, SECTIONS 3 AND 5 OF THE 1972 MONTANA CONSTITUTION AND PROVIDING FOR A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. Title 47A, Part 3, Chapter 2 that reads as follows:

PART 3, CHAPTER 2, ALTERNATIVE FORMS OF LOCAL GOVERNMENT

47A-3-201. Declaration of purpose. (1) The purpose of this chapter is to comply with Article XI, section 3 (1), of the Montana constitution, which provides: "The legislature shall provide such optional or alternative forms of government that each unit or combination of units may adopt, amend, or abandon an optional or alternative form by a majority of those voting on the question."

(2) This chapter establishes the alternative forms of government for cities, towns, counties, and consolidated governments. This chapter shall be liberally construed to facilitate the adoption of a form of local government. The procedure to adopt, amend, or abandon these forms is provided in sections 16-5101 et. seq.

47A-3-202. Adoption of alternative forms. Each local government in the state shall adopt one of the alternative forms of government provided for in this chapter including one of each sub-option authorized: the commission-executive form (which may also be called the "council-executive", the "council-mayor", or the "commission-mayor" form), the commission-manager form (which may also be called the "council-manager" form), the commission form, the commission chairman form, the town meeting form, or the charter form.

47A-3-203. Commission-executive form. (1) The commission-executive form (which may be called the "council-executive", the "council-mayor", or the "commission-mayor" form) consists of an elected commission (which may be referred to as the "council" and one elected executive (who may be referred to as the "mayor") who is elected at large.

(2) The executive shall:

(a) enforce laws, ordinances, and resolutions;

(b) perform duties required of him by law, ordinance, or resolution;

(c) administer affairs of the local government;

(d) direct, supervise, and administer all departments, agencies, and offices of the local government, except as otherwise provided by law or ordinance;

(e) carry out policies established by the commission;

(f) recommend measures to the commission;

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(g) report to the commission on the affairs and financial condition of the local government;

(h) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

(i) report to the commission as the commission may require;

(j) attend commission meetings and may take part in discussions;

(k) execute the budget adopted by the commission;

(l) appoint, with the consent of the commission, all members of boards; except, the executive may appoint without the consent of the commission temporary advisory committees established by the executive.

(3) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) The executive:

(i) shall appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the executive; or

(ii) may appoint one or more administrative assistants to assist him in the supervision and operation of the local

government. Such administrative assistants shall be answerable solely to the executive.

(b) The executive may:

(i) appoint and remove all employees of the local government; or

(ii) appoint and remove, with the consent of a majority of the commission, all employees of the local government; or

(iii) appoint, with the consent of a majority of the commission, all department heads. The executive may remove department heads and may appoint and remove all other department employees; or

(iv) appoint and remove, with the consent of a majority of the commission, all department heads. The executive may appoint and remove all other employees of the local government.

(c) The executive may:

(i) veto ordinances and resolutions, subject to override by a majority plus one of the whole number of the commission; or

(ii) veto ordinances and resolutions, subject to override by a two-thirds vote of the commission; or

(iii) sign all ordinances and resolutions with no veto power.

(d) The executive may:

(i) prepare the budget and present it to the commission for adoption; or

(ii) prepare the budget in consultation with the commission and department heads.

(e) The executive may:

(i) exercise control and supervision of the administration of all departments and boards; or

(ii) exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

(f) A financial officer (who may be called the "treasurer"):

(i) shall be elected; or

(ii) shall be appointed by the executive with the consent of the council; or

(iii) shall be selected as provided by ordinance; or

(iv) may, at the discretion of the commission, be selected as provided by ordinance.

(g) The commission shall be:

(i) elected at large; or

(ii) elected by districts in which candidates must reside and which are apportioned by population; or

(iii) nominated by districts in which candidates must reside and which are apportioned by population, but elected at large; or

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(h) Local government elections shall be conducted on a:

(i) partisan basis as provided in this Title; or

(ii) non-partisan basis as provided in this Title.

(i) The commission shall have a chairman who shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) selected as provided by ordinance.

(j) The presiding officer of the commission shall be:

(i) the chairman of the commission who may vote as other members of the commission; or

(ii) the executive who may vote as the commissioners; or

(iii) the executive who shall decide all tie votes of the commission, but shall have no other vote. The chairman of the commission shall preside if the executive is absent; or

(iv) the executive, but he may not vote.

(k) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(l) The size of the commission, which shall be a number not less than three (3), shall be established when

the form is adopted by the voters, and;

(i) community councils of at least three (3) members shall be elected within each district to advise the comissioner from that district. Local governments conducting elections at large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(m) The term of office of elected officials may not exceed four (4) years, and shall be established when the form is adopted by the voters.

(4) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(a) general government powers; or

(b) self-government powers.

47A-3-204. Commission-manager form. (1) The commission-manager form (which may be called the "council-manager" form) consists of an elected commission (which may be called the "council") and a manager appointed by the commission who shall be the chief administrative officer of the local government. The manager shall be responsible to the commission for the administration of all local government affairs placed in his charge by law, ordinance,

or resolution.

(2) The manager shall be appointed by the commission for an indefinite term on the basis of merit only, and removed only by a majority vote of the whole number of the commission.

(3) The manager shall:

(a) enforce laws, ordinances, and resolutions;

(b) perform the duties required of him by law, ordinance, or resolution;

(c) administer the affairs of the local government;

(d) direct, supervise, and administer all departments, agencies and offices of the local government unit except as otherwise provided by law or ordinance;

(e) carry out policies established by the commission;

(f) prepare the commission agenda;

(g) recommend measures to the commission;

(h) report to the commission on the affairs and financial condition of the local government;

(i) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

(j) report to the commission as the commission may require;

(k) attend commission meetings and may take part in the discussion, but he may not vote;

(l) prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;

(m) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance. Employees appointed by the manager and his subordinates shall be administratively responsible to the manager;

(n) appoint members of temporary advisory committees established by the manager.

(4) Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of his subordinates are empowered to appoint.

(5) Except for the purpose of inquiry or investigation under this title, the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager, solely through the manager, and neither the commission nor its members may give orders to any such employee, either publicly or privately.

(6) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) All members of boards, other than temporary advisory committees established by the manager, shall be

appointed by:

(i) the chairman with the consent of the commission; or

(ii) the manager with the consent of the commission; or

(iii) the commission.

(b) The commission shall be:

(i) elected at large; or

(ii) elected by districts in which candidates must reside and which are apportioned by population; or

(iii) nominated by districts in which candidates must reside and which are apportioned by population, but elected at large; or

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(c) Local government elections shall be conducted on a:

(i) partisan basis as provided in this Title; or

(ii) non-partisan basis as provided in this Title.

(d) The chairman of the commission shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) elected by the qualified electors for a term of office; or

(iii) selected as provided by ordinance.

(3) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(f) The size of the commission, which shall be a number of not less than three (3), shall be established when the form is adopted by the voters, and:

(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(g) The term of office of elected officials may not exceed four (4) years, and shall be established when the form is adopted by the voters.

(7) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(a) general government powers; or

(b) self-government powers.

47A-3-205. Commission form. (1) The commission form consists of an elected commission (which may also be called

the "council") and other elected officers as provided in this section. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by ordinance the executive and administrative powers and duties into departments headed by individual commissioners.

(2) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) The commission shall be:

(i) elected at large; or

(ii) elected by districts in which candidates must reside and which are apportioned by population; or

(iii) nominated by districts in which candidates must reside and which are apportioned by population, but elected at large; or

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(b) Local government elections shall be conducted on

a:

(i) partisan basis as provided in this Title; or

(ii) non-partisan basis as provided in this Title.

(c) The chairman of the commission, who may be referred to as the "mayor", shall be the presiding officer of the commission. All members of boards and committees shall be appointed by the chairman with the consent of the commission. The chairman shall be recognized as the head of the local government unit and may vote as other members of the commission. The chairman shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) selected as provided by ordinance; or

(iii) elected directly by the voters for a term established by ordinance.

(d) The commission:

(i) shall appoint one or more administrative assistants to assist them in the supervision and operation of the local government; or

(ii) may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.

(e) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(f) The size of the commission, which shall be a number of not less than three (3), shall be established when the form is adopted by the voters, and:

(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(g) The term of office of elected officials may not exceed four (4) years, except the term of office for commissioners in counties adopting the form authorized by Article XI, section 3 (2), of the Montana constitution, may not exceed six (6) years. Terms of office shall be established when the form is adopted by the voters.

(3) In county and consolidated local governments, the plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below. The officers shall have the powers and duties established by ordinance. After the establishment of any office, the commission may consolidate, as provided by law, two or more of the offices.

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(a) A legal officer (who may be called the "county attorney"):

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as by ordinance; or

(vi) shall not be included in this form as a separate office.

(b) A law enforcement officer (who may be called the "sheriff"):

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(c) A clerk and recorder:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(d) A clerk of district court:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(e) A treasurer:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(f) A surveyor:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(g) A superintendent of schools:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(h) An assessor:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(i) A coroner:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate

office.

(j) A public administrator:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(k) An auditor:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

47A-3-206. Commission chairman form. (1) The commission chairman form consists of an elected commission

(which may also be referred to as the "council"), and a commission chairman (who may also be referred to as "mayor" or as "president") elected by the members of the commission from their own number.

(2) The commission chairman (who may also be referred to as "mayor") shall be elected by the members of the commission from their own number to serve at the pleasure of the commission. He shall: be the presiding officer of the commission, be recognized as the head of the local government unit, have the power to vote as other members of the commission, be the chief executive officer of the local government, and:

(a) enforce laws, ordinances, and resolutions;

(b) perform duties required of him by law, ordinance, or resolution;

(c) administer the affairs of the local government;

(d) direct, supervise, and administer all departments, agencies, and offices of the local government, except as otherwise provided by law or ordinance;

(e) carry out policies established by the commission;

(f) prepare the commission agenda;

(g) recommend measures to the commission;

(h) report to the commission on the affairs and financial condition of the local government;

(i) execute bonds, notes, contracts, and written

obligations of the commission, subject to the approval of the commission;

(j) report to the commission as the commission may require;

(k) attend commission meetings and may take part in discussions;

(l) execute the budget adopted by the commission;

(m) appoint with the consent of the commission all members of boards and committees; except the chairman may appoint without the consent of the commission temporary advisory committees established by the chairman;

(n) appoint with the consent of a majority of the commission all department heads. The chairman may remove department heads and may appoint and remove all other employees;

(o) prepare the budget and present it to the commission for adoption;

(p) exercise control and supervision over the administration of departments and boards.

(3) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) The commission shall be:

(i) elected at large; or

(ii) elected by districts in which candidates must reside and which are apportioned by population; or

(iii) nominated by districts in which candidates must reside and which are apportioned by population, but elected at large; or

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(b) Local government elections shall be conducted on a:

(i) partisan basis as provided in this Title; or

(ii) non-partisan basis as provided in this Title.

(c) The commission chairman:

(i) shall appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the chairman; or

(ii) may appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the chairman.

(d) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(e) The size of the commission, which shall be a

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number of not less than five (5), shall be established when the form is adopted by the voters, and:

(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(f) The term of office of elected officials may not exceed four (4) years, and shall be established when the form is adopted by the voters.

(4) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(a) general government powers; or

(b) self-government powers.

47A-3-207. Town meeting form. (1) The town meeting form consists of an assembly of the qualified electors of a town (known as a town meeting), an elected town chairman, who shall be a qualified elector, and an optional elected town meeting moderator. The town meeting form may be adopted only by incorporated cities or towns of less than two thousand (2,000) persons as determined by the most

recent decennial census as conducted by the United States bureau of the census unless a more recent enumeration of inhabitants be made by the state, in which case such enumeration shall be used for the purposes of this section. Any unit of local government which adopts this form may retain it even though its population increases to more than two thousand (2,000).

(2) All legislative powers of the town shall vest in the town meeting. The town meeting may enact rules, resolutions, and ordinances.

(3) (a) Towns adopting this form shall convene an annual town meeting on the first Tuesday of March. Special town meetings may be called by the town chairman or upon petition of ten percent (10%) of the qualified electors of the town, but in no case by less than ten (10) qualified electors.

(b) All qualified electors of the town may attend the town meeting, take part in the discussion and vote on all matters coming before the town meeting. Others may attend but shall not vote nor take part in the discussion except by a majority vote of the town meeting.

(c) A quorum shall consist of at least ten percent (10%) of the qualified electors of the town but a higher quorum requirement may be established by a majority vote of the town meeting.

(d) The election of town officials shall be non-partisan and shall be by a plurality of those qualified electors present and voting. All other voting in the town meeting shall be by a simple majority of those qualified electors present and voting.

(e) Election of officials shall be by secret ballot. Other voting shall be by secret ballot upon the request of at least five members of the town meeting.

(4) An agenda of the town meeting and a list of all elective and appointive offices to be filled shall be prepared by the town chairman who shall post notice at least two (2) weeks prior to the convening of all annual and special town meetings. Upon written petition of at least ten percent (10%) of the qualified electors of the town, but not less than ten (10) qualified electors, the town chairman shall insert a particular item of items in the agenda for the next annual or special town meeting. The town meeting agenda may include an item entitled "other business" under which any matter may be considered by the town meeting except no matter dealing with finance or taxation shall be considered under "other business".

(5) The town meeting shall elect a town chairman for a term of not less than one (1) year or more than two (2) years. An unexpired term of a town chairman shall be filled at the next annual or special town meeting.

(6) The town chairman shall be the chief executive officer of the town and he shall:

(a) enforce laws, ordinances, and resolutions;

(b) perform duties required of him by law, ordinance, or resolution;

(c) administer the affairs of the town;

(d) prepare the town meeting agenda;

(e) attend all annual and special town meetings;

(f) recommend measures to the town meeting;

(g) report to the town on the affairs and financial condition of the town;

(h) execute bonds, notes, contracts, and written obligations of the town, subject to the approval of the town;

(i) appoint, with the consent of the town meeting, members of all boards and appoint and remove all employees of the town;

(j) prepare the budget and present it to the town meeting for adoption;

(k) exercise control and supervision of the administration of all departments and boards;

(l) carry out policies established by the town meeting.

(7) Compensation of the town chairman shall be established by ordinance but shall not be reduced during the

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current term of the town chairman.

(8) Permanent committees to advise the town chairman and/or the town meeting may be established and dissolved by ordinance. The town chairman may establish temporary committees to advise him.

(9) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) The town meeting shall:

(i) elect a town meeting moderator for a term of one (1) year who shall be the presiding officer of all annual and special town meetings but who shall have no other governmental powers; or

(ii) designate the town chairman as presiding officer of all annual and special town meetings.

(b) The town chairman:

(i) shall appoint an administrative assistant to assist him in the supervision and operation of the affairs of the town. The administrative assistant shall be answerable solely to the town chairman and the town chairman may delegate powers to the administrative assistant at his discretion; or

(ii) may appoint an administrative assistant to assist him in the supervision and operation of the affairs of the

town. The administrative assistant shall be answerable solely to the town chairman and the town chairman may delegate powers to the administrative assistant at his discretion.

(10) The first agenda of the first town meeting following the adoption of this form shall be established by the local study commission. At that town meeting the chairman of the local study commisssion shall preside over the election of the presiding officer of the town after which the presiding officer of the town shall preside.

(11) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(a) general government powers; or

(b) self-government powers.

47A-3-208. Charter form. (1) The purpose of this section is to comply with Article XI, section 5 (1), of the Montana constitution, which provides: "(1) The legislature shall provide procedures permitting a local government unit or combination of units to frame, adopt, amend, revise, or abandon a self-government charter with the approval of a majority of those voting on the question. The procedures shall not require approval of a charter by a legislative body."

(2) Charter provisions establishing executive,

legislative, and administrative structure and organization are superior to statutory provisions.

(3) A charter form of government shall possess self-government powers.

(4) Charter form of government shall be established by a charter which is a written document defining the powers, structures, privileges, rights, and duties of the unit of local government and limitations thereon.

(5) The charter shall provide for an elected legislative body, called a commission or council, or shall provide for a legislative body comprised of all qualified electors. For elected legislative bodies the charter shall specify the number of members thereof, their term of office, the method of their election, the grounds for their removal, and the method for filling vacancies.

(6) The charter shall provide for the election and nomination of commissions at-large, or by districts in which candidates must reside and which are apportioned by population, or by a combination of districts in which candidates must reside and which are apportioned by population and at-large.

(7) The charter shall specify which official of the local government will be the chief administrative and executive officer, the method of his selection, his term of office, except that it may be at the pleasure of the

selecting authority if such officer is not elected by popular vote, the grounds for his removal, and his powers and duties. Notwithstanding the foregoing, the charter may allocate the chief executive and the chief administrative functions among two or more officials specified as above, or the charter may provide that chief executive and administrative functions of the local government will be performed by one or more members of the legislative body.

(8) The charter may establish other legislative, administrative, and organizational structures.

(9) A charter form of government shall have such officers, departments, boards, commissions, and agencies as are established in the charter, by local ordinance, or required by state law.

(10) Charter provisions may not conflict with the provisions of Title 47-A, part 7 which establish statutory limitations on the powers of self-government units.

(11) The enumeration of powers in a charter shall not be construed as a limitation or prohibition on the residual or self-governing powers granted by the constitution.

(12) The charter may contain prohibitions on the exercise of power by a unit of local government.

(13) The charter may include such provisions as may be necessary to permit an orderly transition to the new form of government.

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(14) The charter shall specify the date on which the charter will take effect, except that provisions may be made for temporary partial effectiveness consistent with an orderly transition of government.

(15) The listing of charter provisions in this section shall not be construed to prevent the inclusion of additional provisions in charters.

(16) A charter may be amended only as provided by state law.

Section 2. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 3. Effective date. This act is effective May 2, 1977.

-End-

FEBRUARY 1, 1975
PROCEEDINGS OF THE JOINT HEARING
HOUSE AND SENATE LOCAL GOVERNMENT COMMITTEES

A joint hearing of the Senate and House Local Government Committees was called to order by Senate Chairman Romney in the House Chambers of the State Capitol Building at 10:00 A.M.

Roll call: All members of the House Committee on Local Government were present with the exception of Representative Bertelsen who was excused.

Senator Romney explained the purpose of the joint hearing was to hear testimony on House Bills 176, 177, and 179.

Senator Romney introduced Rep. Gerke, Chairman of the House Local Government Committee, and turned the hearing over to him. Rep. Gerke advised those present that the hearing was being taped.

Chairman Gerke introduced the following members of the State Commission on Local Government:

Harold A. Fryslie, City Manager, city of Bozeman, who spoke on the history of the commission and the preparation that went into the drafting of the legislation.

Senator C. R. Thiessen, District No. 27, spoke on the purpose of the study and goals.

Chairman Gerke advised those present of the ground rules for the hearing and opened it for testimony.

PROPONENTS TO HOUSE BILLS 176, 177, AND 179

John Toole, Chairman of the Missoula Local Study Commission, spoke in support and presented a list of local government bodies also supporting the legislation.

Dan Mizner, Executive Director, Montana League of Cities and Towns, noted this study is of national interest throughout the U.S.

Mike Micone, Mayor, city of Butte, said these bills will allow local government to determine the destiny of our cities.

Al Thelen, City Manager, Helena, spoke and left written testimony - exhibit 1.

Richard Thomas, City Manager, city of Great Falls, asked if they are giving enough home rule to cities in House Bill No. 179.

Dean Zinnecker, Executive Director, Montana Association of Counties, spoke and left prepared testimony and amendments - exhibit 2.

Dale Skaalure, County Commissioner, Chouteau County, endorsed the amendments presented by the Montana Association of Counties, and said there should be a possible means to raise the funds for local government services.

Dorothy Eck, State-Local Coordinator, Office of the Governor.

Mary Hempleman, League of Women Voters of Montana, had questions on the ballots in House Bill No. 177, and noted concern for adequate revenue - exhibit 3.

Rep. Gerke announced a workshop will be held at 2:00 p.m. in Room 108.

Peter Koehn, Bureau of Governmental Research, Missoula, spoke in support of the legislation.
Michael Pichette, Montana Democratic Party, spoke in support.
Mirrell H. Klundt, County Clerk & Recorder, Yellowstone County, was concerned with ballot and election provisions in HB 177 - exhibit 4.
Chuck Sterill, Executive Vice President Billings Chamber of Commerce.
Nancy Leifer, a citizen of Montana, stated there is a great need for study and understanding of Montana's local government. The three bills provide the framework necessary to carry out the spirit of local government review and particularly supports the section of HB 177 which provides that copies of the final reports of the study commission be sent to all qualified voters.
John Bell, Clerk & Recorders Assoc., said they endorse Dean Zinnecker's comments and that there are several inconsistencies with election and term of office provisions.
Robert VanDeVere, disagreed with Thelen about election days and thought it would save money if all elections were on the same day.
Jan Gerke, Helena Women's Political Caucus, was concerned with section 16 in HB 177 as it does not provide election in 1975 - exhibit 5.
Dr. Esplin, Great Falls, was concerned with parts of HB 177 dealing with elected officials if alternative form of government was selected and section 18.
John Petelin, City of Anaconda Study Commission.
Marie Tierney, Chairman, Cascade County Study Commission, spoke and presented statement and proposed amendments - exhibit 6.

OPPONENTS TO HOUSE BILLS 176, 177 AND 179

Charley Mahoney, Clancy, said he was not in opposition of the bills but spoke on HB 179 and questioned how much is given to local government.
John T. Lewis, Boulder Study Commission.

ANY AMENDMENTS TO HOUSE BILLS 176, 177 OR 179

George Kurkowski, City of Miles City Study Commission, did not see how any local government can be "self governing" if it has no fiscal power. He felt that the bill should be amended to provide local governments with authority to tax incomes and/or the sale of goods or services i.e., delete line 7 and 8, page 5, HB 179.
Elmer Frame, County Study Commission, Missoula, amendment to HB 179 - exhibit 7.
Nancy Orr, Missoula County Study Commission, amendments to HB 177 - exhibit 8.
Hugh Brown, representing the Dept. of Fish and Game, amendment to HB 179 - exhibit 9.

George Harper, Helena City Local Government Study Commission, amendments to HB 177 and 179 - exhibit 10.

Amendments to HB 176, 177 and 179 recommended by the State Commission on Local Government at their January 21, 1975 meeting were presented - exhibit 11.

The following people left sign statements or written testimony or amendments:

Robert L. Deschamps, attorney, statement from the Montana County Attorneys Assoc. - exhibit 12.
Penny Egan, Lewis and Clark County Local Government Study Commission, statement - exhibit 13.
Virginia H. Blend, Great Falls, statement - exhibit 14.
Robert L. Anderson, Flathead County Study Commission, in support.
John D. Engebretson, Kalispell City Study Commission, supports the bills in general, but oppose any amendments which would limit the options of the local government.
Lee H. McCartney, City of Havre Local Study Commission, in support.
Frank O. Farrell, City of Butte Study Commission, in support.
Jo Ann Woodgerd, Secretary of State's Office, in support of amendment to HB 177, section 16(2), page 39, to change the dates for the special primary and general elections for local government officials to February 8 and April 5 - exhibit 15.
Tom Stott, Teton County Study Commission.
Carol Heald, Billings, in support.
Hardin E. Todd, Clerks of District Court, in support.

Chairman Gerke expressed appreciation on behalf of the Joint Standing Committees and the State Commission on Local Government to all those participating in the hearing.

The hearing adjourned at 12 noon.

Harold E. Gerke, Chairman

Yvonne Borgmann, Secretary

176
177
179

NAME Harold A. Epsie Bill No.

ADDRESS Bozeman, Mont Date 1 Feb 75

WHOM DO YOU REPRESENT? Mt. Comm. on Local Gov.

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME John Toole Bill No. 171 178 188

ADDRESS Missoula Date

WHOM DO YOU REPRESENT? State Contractors Council

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME _____ Bill No. 176 179

ADDRESS _____ Date _____

WHOM DO YOU REPRESENT? _____

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

EXHIBIT 1

Testimony given by City Manager Al Thelen at the Joint Hearing on House Bills 176, 177 and 179 on February 1.

Mr. Chairman and members of the Joint Committee:

Let me first extend to you my appreciation for the opportunity to appear before this joint session today. I would also like to advise the members of the Joint Committee that City officials are very grateful for the openness by which the State Study Commission handled their meetings and worked throughout the year. Since I live in Helena, it wa my priviledge to attend many of these meetings and they allowed us to participate freely in these discussions and we thank them for this courtesy.

The City governing body of Helena supports without exception House Bill 176 dealing with the forms of local government. Flexibility is the key word throughout the development of this bill and it certainly offers something for everybody and we recommend its adoption by your Joint Committees.

The City of Helena also supports House Bill 177 dealing with the procedures by which local government study commission will proceed with their work with one exception. That d exception deals with the date on which the elections have been scheduled for the elected official in April of 1977.

We take exception to the holding of both the partisan and the non-partisan elections on the same date. This slight exception is taken because it is our belief that when you hold a partisan and non-partisan election on the same date you in fact have partisan elections. We point to the experience in Montana with the election of Supreme Court Judges for evidence of this position.

Montana has had a long history of non-partisan government at the City level. It is apparent that we have decided that there is not a Democratic or Republican way to operate a City but have chosen to operate cities on a non-partisan basis. Nevertheless, we commend the Commission for allowing local governments to choose between partisan and non-partisan elections in the 1976 election on change in form.

We think it is ironic on the other hand, that once they have made this choice they are forced to have elections on the same day in 1977.

This matter has been discussed at length by the State Study Commission and in the meeting in December they adopted an amendment suggested by the City of Helena to separate these elections. This was done because it was discovered that there would be a non-partisan school election one week after the scheduled election for the new governing bodies. However, I am told at yesterday's meeting that the partisan elections were also moved to this combined date or the same date that the school elections have been previously scheduled for in 1977.

It is our contention that this happened because prime attention was given to county government in the State Commission Study with very little attention given to City government until the last month or two of their study.

The reason that the current date was chosen by the State Study Commission was to enable the commissioners elected in 1977 to have a chance to participate in the budget process for the fiscal year beginnning in July of 1977. Under the current time table they would take office the first of May and we suggest to you that this would be too late for them to participate in any major budget decisions and therefore the original time table was chosen on a false premise. We see no problem in either having the partisan or non-partisan election extended for at least sixty days.

It is our contention that a City could looso much more from the forced involvement of partisan politics into its affairs under House Bill 177 than it could every gain from House Bills 176, 177 and 179. We respectfully request that you reconsider this election time table.

If the City Commission of Helena is very concerned about the restrictions imposed on local governments in House Bill 179 which is supposed to provide local self government to cities and counties.

Flexibility seems to be the key word in developing the alternate forms bill. State restriction seems to be the key word in establishing the self-government bill. It seems ironic to us that these two approaches would be taken by the same staff and same study commission on very similar subjects.

It is our opinion that one of the reasons that there are so many restrictions on local self government is that again the State Study Commission gave maximum attention to reforms and improvement in county government and minimum attention to City government and has suggested that these bills provide substantial improvements for local government. It is improtant for us to recognize that most of the improvements and advantages in these bills relates to county government and not to city government. We certainly do not object to any of the improvements in county government but would not want you to proceed on the basis that great reforms were being offered in local government.

"The Local Study Commission process has been described as a panacea for local government" and as "the most significant thing that has ever happened to local government in Montana." City officials as well as State officials have misrepresented these bills because we have used the term local government when we really should be using the term county government. There is some indication that this might have been intentional but in any event it is importnat that we understand that these bills are not solving the major problems of local government.

The major problem of local government is the extent to which we have to use property taxes to finance our municipal functions. House Bill 179 which provides the power for local government does not provide any solutions for this problem. It does in fact, ignore the major problem of City government. There is nothing in this bill that is bad, however, it does not go very far in solving City government problems and we suggest to you that consideration be given to liberalizing this bill.

The business of City government involves providing services to people the same as any service giving agency. In order to do this the most important ingrediants are:

People or employees and money.

The restrictions in House Bill 179 prohibit any flexibility on the part of City government in dealing with these two ingrediants.

If the restrictsions that are currently in House Bill 179 remain in that bill then the State government will have to continue to accept the responsibility for the quality and level of municipal services because the bill simply does not give the authority to local government officials to deal with these problems.

We had an opportunity to review the first 350 bills that were submitted to the current legislative session. In analyzing those bills, we found that 77 of them deal with local government problems. Only 8 of the 77 deal with matters of state-wide concern and the other 69 deal with matters that relate to a specific city or a specific group. It would appear that both your time and our time could be better spent if the state government included something in House Bill 179 that would in fact, prohibit the State Legislature from acting on matters that were not state-wide in application where cities and counties have adopted the self-government powers. If some attention is not given to this problem, House Bill 179 will offer very little to City Government.

Thank you.

176
177
~~179~~

NAME Richard D. Thomas Bill No.

ADDRESS P.O. Box 1219 Great Falls Date 2/6/75

WHOM DO YOU REPRESENT? City of Great Falls

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Support with some reservations in re: limitation of powers for cities as set out in HB 179.

EXHIBIT 2

Montana Association of Counties

TELEPHONE (406) 442-5209
1802 ELEVENTH AVE HELENA, MONTANA 59601

TESTIMONY GIVEN TO THE JOINT LOCAL GOVERNMENT COMMITTEE HEARINGS ON HB 176, 177 and 179

Mr. Chairman and Members of the Joint Local Government Committees:

We would like to take this opportunity to congratulate the State Commission on Local Government and their staff for the fine job they have done over the last year in preparing legislation on the voter review of local government and the studies they have conducted on the operation of local government.

The three bills being discussed this morning are generally very good in most all aspects they pertain to. HB 176, dealing with the alternative forms of local government that establishes most any option for local government that will be necessary in the future. We offer our support of the bill as introduced.

HB 177 establishes the procedures by which the study commissions must operate. We support most of the provisions in the bill, however, we do have two proposed amendments to this bill. The first amendment deals with the language on page 31, section 12, sub-section 4, beginning on line 18. The language in sub-section 4 will require the local study commissions to submit copies of their final report to each and every registered voter in the county. We submit that this is not a necessary expenditure of local moneys, and that the language is not necessary. We do agree, however, that the voters should be informed, therefore, our amendment will change the language to require the local study commissions to have reports available and to distribute those reports. However, it will not require the study commissions to submit them to every registered voter. For an example, other language in this legislation requires the summary of the plan of government to be printed in the newspaper for two weeks. We submit that the duplication outlined in the bill is a waste of the taxpayer dollar. The Montana Association of Counties has prepared 5,000 copies of a booklet entitled "Montana Counties on the Move . . ." You have all received a copy of that booklet. The final report of the local study commissions should be approximately the same size as that book and the cost to our Association exceeded $10,000 for 5,000 copies, or in excess of $2.00 per book. We do not believe this expenditure is necessary by the local study commissions. Less than 20% of the voting public would ever read the report and that 20% that does read the report should have access to the report. Our amendment to the bill will provide that access and still save the taxpayer a substantial sum of money.

The second amendment we propose to HB 177 deals with section 15 sub-section 2 on page 38. The language proposed in the legislation provides that, if an optional form of government is adopted by the voters, the present elected officials will terminate automatically on May 1, 1977. The only exception allowed in the bill is the county commissioner that was elected under the old constitution. We do not believe that the

language in the bill is justified, since the elected officials ran for a term of office in the last campaign. Our amendment proposes that those people elected to the governing body be allowed to finish out their term on the board of the new governing body. All the other elected officials would be allowed to serve out their terms also, except that they would serve, basically, at the pleasure of the person or body administering the new form of government. In other words, if the voters in a county adopted a county-manager form of government, the clerk and recorder in that county would serve for at least two years under that county manager. We believe this amendment would provide two essential aspects in the voter review process. First, it would provide more continuity of government than would be possible if those officials were terminated immediately. Secondly, it should reduce the amount of opposition to a new form of government and possibly raise the chances of success for home-rule government being approved by the voters. The delegates to the constitutional convention in 1972 recognized this problem in the new constitution. In doing so, they provided a transition schedule allowing the elected officials to remain in office even though that office may have been terminated by the new constitution. We believe that this legislature should also recognize the necessity of this amendment.

The final bill, HB 179, is probably the most important bill that will be considered by this legislative session. HB 179 provides restrictions on local government powers, under a home-rule, or charter form of government. We believe the limitations placed in the bill are generally necessary and reasonable. However, there is one provision in the bill we do not agree with, nor do we endorse. We believe that on page 5, sub-section 1, beginning on line 7 should be deleted in its entirety. This sub-section limits the ability of local government to finance themselves under the home-rule concept. We ask you, "How can you have home-rule, without the ability to finance that home-rule?" Restricting a local government to the property tax is not providing any of the essential needs for taxation flexibility. Let me quote from a policy statement adopted by the Montana Association of Counties at our last annual convention. "The property tax has become burdensome to all property owners in Montana, yet it is not adequate to support the demands of education and public assistance, therefore, we call upon the state legislature and state administration to explore other avenues of taxation that may be submitted to the electors with alternative forms of government." The argument may be raised that the income tax, or even possibly a sales tax, should be reserved to the state for a means of financing. Members of the committee, we submit that the income tax and sales tax, as well as the property tax, are the primary forms of finance for all levels of government. The property tax has not been reserved to local government for finance; the income tax is not reserved to the State of Montana as finance, since the federal government uses it. All options should be available to a home-rule government if they are to be able to establish the necessary services demanded by their local citizens. Cost of administration will be another argument against allowing more flexibility for financing local governments. At the present time, we believe local governments would not utilize the sales tax because of that cost. However, in future years a means to reduce that amount of cost may be available. With regards to the income tax, I would hope that local governments could enter into a cooperation agreement with

the State of Montana to piggy-back an income tax on to the state income tax, therefore, reducing the cost of administration, but, yet, meeting local needs, not necessarily state needs. State revenue sharing will undoubtedly be mentioned during this legislative session. The problem with state revenue sharing is, in most cases, your taking from rural area to finance an urban area. Our belief is that if an urban area requires additional revenue, they should be given the flexibility to obtain that revenue from the local citizens who are demanding the local service.

Members of the committee, we thank you for the opportunity to make these comments and request that our proposed amendments to this legislation, and the legislation overall, be given due consideration and be given "Do Pass".

Thank You.

HB 176
177

NAME Ralph Klaudt Bill No. 179

ADDRESS Helena, Mont Date 2/1/75

WHOM DO YOU REPRESENT? Mont Power Company

SUPPORT _____ OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Property Tax not necessarily a criteria for the ability to pay —

Personal matters not property tax for years to some degree.

Confidential people - Confidence
& Character of Private property

Thru democratic process of local govt
local powers to initiate testing or
revision of other methods of taxing

NAME Dorothy Eck _____ Bill No. _____

ADDRESS 15 15th St. Sac. _____ Date _____

WHOM DO YOU REPRESENT? State-Local Coordinator, Office of Governor

SUPPORT V OPPOSE _____ AMEND 176-177-179

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

176
177

NAME Mary Hemplemall Bill No. 179

ADDRESS 1100 Ave. B, N.W., Great Falls, Montana Date 2/4/75

WHOM DO YOU REPRESENT? League of Women Voters of Montana

SUPPORT \ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STATE PROGRAM - LWV of Montana **EXHIBIT 3**

Local Government - The Constitution of the State of Montana should:
a. Allow local governments to assume any powers not specifically denied them by the Constitution or law.
b. Grant units of local governments the option of adopting charters subject to approval of the legislature and ratification by the voters.

State-Local Relations
The structural goals are:
1. To achieve orderly community growth.
2. To adjust governmental structures and services to best fit particular areas and needs.

leave out

Means to achieve these goals are:
1. Interlocal Cooperation.
2. Support of Interlocal Cooperation Commissions in Montana Counties.
3. City County Planning.
4. Improved annexation laws which balance the interests of the central city and the fringe areas, and are subject to judicial review.
5. Advisory and planning services from the state level.
6. Support of a legislative survey of the extent and control of special districts performing single, local services.

The financial goals are:
1. Adequate revenue sources for local governments to meet local needs including revenue sharing from the state government.
2. Equitable and efficient administration of the property tax

HB176 BOUND BILL-Flexible - permits local government to fit local needs.
HB 177 PROCEDURES BILL - p.34, C. How many precincts in Bear Creek?
HB179 POWERS BILL - Too many restrictive amendments to this bill could undo intent of self-government.
Plea for adequate revenue sources for local government to be truly self-governing. If State legislature retains the power of the purse, local government remains dependent.

Our Compliments to the State Commission (and staff) for faithfully translating the spirit of Montana's Constitution into Statute.

Mary Hempleman
President - LWV of Montana
1100 Five B, N.W.
Great Falls, Montana

EXHIBIT 5

February 1, 1975

Re: House Bills 179, 176, 177

Committee: Local Government

Concerning House Bills 179 and 176, we would oppose any amendments that that would unduly restrict the local study commissions. Each local commission must be in a position to decide the form of government and options uniquely applicable to that area.

Concerning House Bill 177, there are two parts in Section 16.5115.13 which cause us considerable unease. Part 1 requiring no elections in 1975 for the commission-manager form of government and part 5, carrying over elected officials of one government to another. We feel that these need serious consideration.

Helena Women's Political Caucus
Jan Gerke
1014 Cherry
Helena, MT 59601

HB 176.
177

NAME John Tietz Jr. Bill No. 179

ADDRESS 1165 W Park Anaconda Date 2/1/75

WHOM DO YOU REPRESENT? City of Anaconda Study Commission

SUPPORT XX OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Study Commission of the city of Anaconda has gone on record as being in support of H.B 176, 177 and 179. No amendments to be made.

HOUSE BILL 176

FORMS BILL

SUGGESTED AMENDMENTS

1. Amend page 2, Section 1, line 21,
   Strike: subsection (d) in its entirety
   Reletter: all subsequent subsections

2. Amend page 29, Section 1, line 14,
   Strike: "the method of their election"
   Insert: "election on a partisan or non-partisan basis

3. Amend page 29, Section 1, lines 16-17
   Following: "provide for the"
   Strike: "election and nomination"
   Insert: "nomination and election"

EXHIBIT 11

Lewis and Clark County
Local Government Study Commission

[redacted]

[redacted]

February 1, 1975

My name is Henry Egan representing the Lewis and Clark County Local Government Study Commission.

Our commission has sent letters to the House and Senate Local Government Committees expressing our wholehearted support of HB 176 and 177. We were particularly impressed with HB 176 because of its flexibility and the many options it offers local communities. We would like those letters entered into the hearing testimony.

We did not send a letter regarding HB 179 because we knew the taxation section was undergoing revision. Our commission wanted time to study the final draft. The Lewis and Clark County Commission has voted to support HB 179 with the reservation that we would like to see the possibility of more taxing authority granted to units of Local Government. We support the concept that local people will know what taxes would be most useful and acceptable to the local community. We believe that this is in keeping with many choices offered in HB 176. Despite our reservation, and because of the many strong features of HB 179, we do urge its passage.

EXHIBIT 14

Virginia H. Blend
26 Prospect Drive
Great Falls, Mt. 59405
January 30, 1975

Representative Harold Gereke, Chm.
& Members of the House Local Government Committee
and

Senator Miles Romney, Chm.
& Members of the Senate Local Government Committee
Montana State Legislature
Helena, Mt.

Re: Hearing on HBS #176, #177 and#179
February 1, 1975

My name is Virginia H. Blend. I was the vice-chairman of the Local Government Committee of the Montana Constitutional Convention. I was one of the developers of the "Voter Review" concept and fully support these three bills as they are written, without amendment. If clarification of semantics is necessary to eliminate doubt of interpretation within each bill, I would hope it would be accomplished by the Committees.

It was our mandate that each local government entity would review its present form of government; not that any committee, commission or group would make a decision on this point whether it would go through the process or not.

Regarding the word "Alternative(s)" and/or options: If you have read the minutes of our local government committee, you will learn that it included (1) putting the present form on the ballot, or (2) the present form with alterations and changes, or (3) at least one new form, to give the voters the opportunity to vote their opinions. I perhaps should have said above "and/or".

It was the thinking of the local government committee that we did not want to mandate that every local government body change its form of government, but only that it review the one it had in depth, and offer alternatives. What the end result would be is immaterial, if the needs of the local entity are met and are satisfactory to the citizens. In my opinion the above numbered bills meet this criteria fully and satisfactorily.

I hear rumors of amendments to allow local government entities to tax with specific measures. I would remind you, Gentlemen and Ladies, that the sole purpose for the existence of local government is to provide services as required by the people, to be collected as FEES; I do not believe local government entities are sophisticated enough, nor have the experts and facilities to enter into the field of taxation. It is the state's responsibility to monitor local government, and is the taxing entity, and it should remain that way. There is another bill in the Legislature this year allowing local government to maintain capital accounts; I think this should be looked upon favorably, but the funds therein should be from economy in the fees collected, not the authority of local government to tax to secure these accounts.

The history of local government nationally and in Montana up to this time has been a piecemeal affair by legislatures to accomodate requests from individual local governments with little thought to the effect of this "self-interest" law on the rest of local government. This is your opportunity to establish a broad-based basic form of government for local government that has built-in options to suit each local government entity. The research going into these three bills has been accomplished with much knowledge and competency - more in fact, than I feel has been given to most legislation since 1889.

I urge there adoption intact, and without amendment.

Virginia H. Blend

HB 177
HB 178
HB 179

NAME Robert L. Nanness Bill No. _____

ADDRESS Box 5 Stitch Date 2/4/25

WHOM DO YOU REPRESENT? Flathead County Study Commission

SUPPORT (X) OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Members of the Flathead County Study Commission support the three bills and amendments which give us the widest possible options to all us in the evaluation of our task.

Bill Nanness

NAME Frank O'Farrell Bill No. 176-177-179

ADDRESS 210 So Arizona St Date _____

WHOM DO YOU REPRESENT? City of Butte Study Commission

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

To The Honorable Legislative Committee on Local Government

My name is Frank O'Farrell and I am acting as spokesman and member of the Local Study Commission from the City of Butte.

I am here to speak in favor of enactment of House Bills 176, 177, and 179. We have had the privilege of attending three or four seminars and study groups presented by the Commission on Local Government. Our feeling is, this group has researched and presented the proposed legislation that enables any city to implement a workable governmental body as specified in the newly adopted Montana Constitution.

Proposed amendments to House Bill 176 not approved by subcommittee:

1. Amend p. 2 line 14 by striking the word "and" and inserting after "council" a comma.

2. Amend p. 2 line 15 by striking the period and inserting , and in the case of a county or any combination of counties, an independently elected prosecutor (who may be referred to as the county attorney or the district attorney) who shall be elected at large.

3. Amend p. 7 line 21 by striking the word "and" and inserting a comma.

4. Amend p. 7 line 23 strike the period and insert , and in the case of a county or any combination of counties, an independently elected prosecutor (who may be referred to as the county attorney of the district attorney) who shall be elected at large.

5. Amend p. 15 line 3 by striking ;and inserting a period, and by striking the work "or".
   Further amend p. 15 by striking lines 4 - 12.

6. Amend p. 20 line 1 by striking the word "and".

7. Amend p. 20 line 4 by striking the period and inserting , and in the case of a county or any combination of counties, an independently elected prosecutor (who may be referred to as the county attorney or the district attorney) who shall be elected at large.

8. Amend p. 30 line 14 by striking the period and inserting , and must have, in the case of a county or any combination of counties, an independently elected prosecutor (who may be referred to as the county attorney or the district attorney) who shall be elected at large.

9. See next page

there would be one person state-wide. Rep. Gerke - you are now trying to amend the bill to include all agencies. It is my understanding they are suppose to do this now. Mr. Badgley said there is not a regulated way to do this now. Question - Do you see a new function for budget and planning if this is adopted. Answer - didn't see that it would. Question - Why couldn't the local study groups do this job, and the people promoting this work go through those people. Answer - This is a much broader approach and believes this is worth a try.

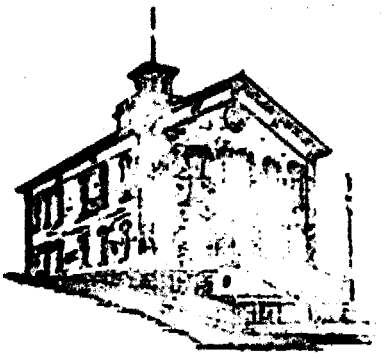
SENATE BILL 116: Senator Greely, chief sponsor, introduced this bill on behalf of the Montana Association of Counties and the Montana League of Cities and Towns. The bill will allow a local governing body to solicit bids for the investment of public funds. It will provide the highest possible interest rates for the money. On page 6, the Senate amended the bill on line 10 and Senator Greely asked that this committee strike the amendment and put in the original language. He will propose a possible amendment if the original language is not acceptable. Dean Zinnecker, Executive Director, Montana Association of Counties, proponent, would prefer the original language as two counties do not have banks and have to go outside the county. If the committee does not agree with the original language will support two proposed amendments - exhibit 3. Dan Mizner, Executive Director, Montana League of Cities and Towns, proponent, said he prefers this bill to HB 405. There were no opponents. Chairman Gerke asked if it was agreeable with the committee and in as much as there are two bills that it be put into a subcommittee. The following were assigned to the subcommittee: O'Connell, chairman, Kummerfeldt and Bertelsen.

The committee went into executive session:

HOUSE BILL 585: It was decided to put this bill in a subcommittee and reported back on Wednesday, February 19th. Those assigned to the subcommittee were: Rep. Gwynn, chairman, Rep. Magone and Rep. Sivertsen.

HOUSE BILLS 176 and 177: Rep. South, chairman of the subcommittee, reported first on HB 176. This act authorizes alternative forms of local government and he presented to the committee amendments that were mostly technical in nature and to do with language. There was one amendment proposed by attorneys that county attorneys be elected. The subcommittee determined this should be left up to the local study commissions to decide whether the attorney should be elected or appointed. Another amendment they refused to insert was for counties, who choose to keep the county commission form of government, to be allowed to adopt self-government powers. It was moved by Rep. Kendall, seconded by Rep. South, that HB 176 be amended as proposed by the subcommittee - exhibit 4. Motion carried unanimously. It was moved by Rep. Kendall, seconded by Rep. Wyrick, that HB 176 DO PASS AS AMENDED. Motion carried unanimously.

Madison County
Government Study Commission



P. O. Box 78

Virginia City, Montana 59755

Harold Gerke, Chairman

House of Representatives

Local Government Committee

Proposed amendment to HB 176 by Madison County Government Study Commission

1. Amend HB 176, h7A-3-205 Commission form, page 19 by adding the following, beginning on line 24.

   (h) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

   (a) general government powers; or

   (b) self-government powers.

Comment:

This amendment would authorize the choice of self-government powers or general powers by those opting for the Commission form of government without having to write a charter to obtain self-government powers.

AMENDMENTS TO HB 176

Be amended in the introduced bill as follows:

1. Amend page 2, section 1, line 21 through 23.
   Strike: subsection (d) in its entirety
   Reletter: all subsequent subsections

2. Amend page 15, section 1, line 10.
   Following: "as"
   Insert: "provided"

3. Amend page 29, section 1, line 14.
   Strike: "the method of their election"
   Insert: "election on a partisan or non-partisan basis"

4. Amend page 29, section 1, lines 16 and 17.
   Following: "provide for the"
   Strike: "election and nomination"
   Insert: "nomination and election"

5. Amend page 30, section 1, line 16.
   Following: "47-A,"
   Strike: "part"
   Insert: "Part"

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 11, 1975

The thirty-fifth meeting of the Local Government Committee was called to order by Chairman Romney on the above date in Room 410 of the Capitol Building at 11:00 A.M.

ROLL CALL: All members were present. Senator Thiessen came in at 11:12 A.M. Senator Cetrone came in at 12:10 P.M. Senator Murphy left at 11:51 A.M.

The following witnesses were present to testify at the meeting:

Representative Gerke, Chairman House Local Govt Committee
Representative South, sponsor of HB 179
Dale Harris, Staff Director for State Commission on Local Government
John Toole, Missoula County Local Govt Study Commission
Wesley Stearns, Plains, Montana
Richard Thomas, Mayor of Great Falls
H. W. Gilman, Madison County Local Govt Study Commission
Marie Tierney, Cascade County Study Commission
June Bowles, Drummond Local Govt Study Commission
Mary Glenn, citizen from Billings
Charles Mahoney, Clancy
John Bell, Clerks and Recorders
Tom Winsor, Montana Chamber of Commerce
Ray Blehm, Montana Firemens' Association
Ed Nelson, Montana Taxpayers Association
Dean Zinnecker, Montana Association of Counties
Dan Mizner, Montana League of Cities and Towns
Alice Campbell, City of Missoula Study Commission
Darlene Grove, League of Women Voters
Al Sampson, Montana Firemens' Association
Leslie Gorman, Broadwater County Study Commission
B. Dean Holmes, Miles City Mayor

CONSIDERATION OF HOUSE BILL 176: Representative Gerke testified that HB 176 offers Local Government Study Commissions the flexibility of determining an alternative form of local government which will be submitted to the voters in 1976. Richard Thomas supported HB 176 on behalf of the City of Great Falls. H. W. Gilman offered an amendment to HB 176 .(Exhibit A) Marie Tierney spoke in support of HB 176 exclusive of amendment. June Bowles of Drummond thought there should be amendment to HB 176 which would allow all townspeople to speak at town meetings whether they were registered voters or not. Dale Harris offered a copy of a Montana Opinion from 1957 which was written by a cohort of Senator Thiessen advocating home rule. (Exhibit C) Charles Mahoney gave several comments on HB 176.

He felt these amendments would be more specific than what is already in the bill i.e. page 8, line 6--he questioned who should determine the merit and why the individual should be hired on merit. Page 9, lines 15 through 17--he felt the commission should decide that. Page 14, line 8 through 12--objected to idea of community council. Page 22, line 18---objected to enlistment of assistant requirement. Page 23, lines 7 through 12 should be stricken. Dean Zinnecker supported this bill as is stands now. Dan Mizner also supported the bill. Darlene Grove from the League of Women Voters supported the bill exclusive of amendments.

CONSIDERATION OF HOUSE BILL 177: Representative Gerke explained HB 177 is almost a continuation of 176 in that it provides for procedures which local study commissions must follow in submitting alternative forms of government to the people for vote. Dale Harris expounded further on this. John Toole, representing several study groups (Exhibit B) supported all the bills in general. Wesley Stearns from Sanders County testified he thought there should be some clarification on this bill on pages 39 through 42 dealing with the number of elections required to adopt alternative forms of government. As it presently reads there is a possibility of four (4) elections during a ten month period. He feels it to be costly, unnecessary and contrary to most of our elections laws now on the books. He feels it should be amended to also take into consideration officials who have in 1974 recently been elected and would be ousted with the adoption of the alternative forms of government. Richard Thomas from Great Falls also spoke on the election requirements in this bill. He felt that by the time the last election was held there would be practically no voter turnout. He wanted the Committee to consider an amendment to return the bill to the original wording and suspend the elections of 1975 for three cities in Montana who would have no necessity for it---Great Falls, Helena and Missoula. Mary Glenn opposed page 6, subsection 6 of HB 177 regarding printing costs to be absorbed by the local government unit. Charles Mahoney offered several areasfor possible amendments i.e. Page 5, lines 5 through 10--objected to local government units financing printing costs page 37, line 4--objected to the waiting period for vote on new form of government. John Bell objected to rotating ballot. Dan Mizner also opposed mailing requirements stating this should be left up to discretion of city commission. He also questioned the tenure situation on page 39, line 6 stating he felt it was unconstitutional. Darlene Grove supported all three bills.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

44th LEGISLATIVE SESSION 1975 Date 3-11-75

NAME	PRESENT	ABSENT	EXCUSED
MILES ROMNEY, CHAIRMAN	✓		
V. B. CETRONE, V. CHMN.	12:10		
TERRY MURPHY	✓		11:51
CONNIE R. THIESSEN	11:12		
ROBERT D. WATT	✓		
PAT M. GOODOVER	✓		
GEORGE McCALLUM	✓		
PETER STORY	✓		

Each day attach to minutes

SENATE Local Government COMMITTEE

BILL _____ VISITORS' REGISTER DATE 3-11-75

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Henry A Burgoyne	Big Horn			
Hence Iverson	Drummond			
Lyle Anderson	Hill County			
Rich Stearns	Plains			
Barbara A Mejus	Lewis Helena			
Ken Knudsen	M.T.C.C & I.	HB 176-179 179		
Dorothy Jean Manuix	Powell Co.			
Neal Eliason	Madison County			
Leroy Tasco	Missoula County			
Marie Turney	Cascade County	177 179		
Lee Overcast	Broadwater County			
Pete	Spencer	176-179	✓	
Dale Harris	Fish Commission Law Enf	176-179	✓	
[redacted]	State Commission enforcement	176 179	✓	
[illegible]	[illegible]			
Bryan Boggs	City of Helena			
Fran Gross	Rivers Flat Creek Stock Assn	176 178 179 SB	✓	
Alice Campbell	1118 Sherwood Helena	176 178 179 SB	✓	
[illegible]	Drummond	176 178 179 SB	✓	
Don Peoples	Yellowstone Papers			
Cary [illegible]	Helena Valley Stockmen			
Lee Drake	Fish Comm Legislator	✓	✓	
Dykema Gross	League of Women Voters	HB 176 SB 179	✓	
Tom [illegible]	City Helena	HB 176 179	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE Fish, Game and Parks COMMITTEE

BILL _____ VISITORS' REGISTER DATE 3-11-75

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Wesley Steiner	Gordon County	177		✓
Charles N Mahoney	Myself	179 177, 176	amend	
Tom Hagens	Hawe	176, 177, 179		
[illegible]	MC Co. & Helena Study Comm			
[illegible]	Helena Chamber of Com. Govt.	176, 177 179	✓	
[illegible]	Mont Property Owners Assn	176, 177 179	✓	
[illegible]	Mt Assn of Counties		Amend	
Tom Wisser	Montana Chamber	179	Amend	
R. D. Thomas	City of Great Falls	176, 177, 179	✓ with amendments	
John Bell	Clerk & Recorders	H. 177	amend	
Wm J. R Sargent	Environmental Type Coalition & Park City	176, 177 & 179	✓	
[illegible]	City of Miles City	176, 177 & 179	✓	
[illegible]	Nelson Study Commission	176, 177 & 179	✓	
Donald Harriott	City of Helena	H	✓	
Dick Kaze	Virginia City Com'rs			
Claire Reichert	myself	176-179 179	✓	
[illegible]	Comm of Agr.	176, 177 179-536	✓	
Al Sampson	Mont St Fire Assn.	HB 179	✓ amendments	
[illegible]	Mont Taxpayers Assoc.	HB 179	Amend	
Cap Bayers	Mont Sheriff & Police Assn	176, 177 179	✓	
Ray Bekins	Mont Firemens Assn	HB 179	✓ as it is now	
Rae Lloyd	League of Women Voters	HB 179	—	
[illegible]	League of Women Voters	HB	✓	
Mary Gibson		HB 177	amend	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE Local Government COMMITTEE

BILL _____ VISITORS' REGISTER DATE 3-11-75

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Richard Wilkinson	Mineral County	177	Amend	
Mayo LeRoy Morris	Adams County			
Kurt E. Berley	Missoula County	176, 177, 177-53	Amend	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

Dale Harris

Exhibit C

NAME: Michael W. Sehestedt DATE: March 11, 1975

ADDRESS: Power Block, Helena, Montana 59601

PHONE: 449-2814

REPRESENTING WHOM? State Commission on Local Government

APPEARING ON WHICH PROPOSAL: HB 176, 177 & 179

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

Exhibit B

NAME: John H Toole DATE: MAR 11 '74

ADDRESS: 617 W. Crestline, Missoula, Mont

PHONE: 549 7662

REPRESENTING WHOM? Missoula County Local Gov't Study Comm.

APPEARING ON WHICH PROPOSAL: 176 177 179

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

NAME: B. Dodson Nelson DATE: Mar. 11, 1975

ADDRESS: Miles City, Montana

PHONE: 232-3462

REPRESENTING WHOM? City of Miles City

APPEARING ON WHICH PROPOSAL: 176 - 177 + 179

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

NAME: R. D. Thomas DATE: 3/11/75

ADDRESS: P.O Box 1609 Great Falls

PHONE: 952 - 8561

REPRESENTING WHOM? City of Great Falls

APPEARING ON WHICH PROPOSAL: HB 176

DO YOU: SUPPORT? HB 179 AMEND? HB 177 OPPOSE?

COMMENTS: Request amendment of HB 177 to

reform Section 11-511.13 to the engine

working in HB 179 suspension of 1975 elections

in Commission - manager cities.

Exhibit A

NAME: H.W. Gilman DATE: March 11, 1975

ADDRESS: PO Box 49 Alder, Montana 59710

PHONE: 842-5318

REPRESENTING WHOM? Madison County Commissioners & Valley Commissioners

APPEARING ON WHICH PROPOSAL: House Bill 176,

DO YOU: SUPPORT? 534 177,179 AMEND? ✓ HB176 OPPOSE?

COMMENTS: This amendment will not hurt H.B. 176. It will let the local governmental entities what they want in regard to the Commission form without having to write a charter to obtain self-government powers or general government powers.

Madison County
Government Study Commission

P. O. Box 78
Virginia City, Montana 59755

[redacted]

Proposed amendment to H.B. 176.

1. Amend H.B. 176, 47A-3-205 Commission form, page 20 by adding the following beginning on line 3.

(4) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(A) general governmental powers; or

(B) self-government powers.

NAME: Marie Tierney DATE: 3-11-98

ADDRESS: Dan Rocke, Grand Forks, ND

PHONE: 701 787 1

REPRESENTING WHOM? Farm Co. Clean Coalition

APPEARING ON WHICH PROPOSAL: 126, 177, 191, 536

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

NAME: Lisa Fennecker DATE: 3-11-75

ADDRESS: Helena

PHONE: 442-3209

REPRESENTING WHOM? Mt Assn of Churches

APPEARING ON WHICH PROPOSAL: HB 176, 177 & 179

DO YOU: SUPPORT? C AMEND? C OPPOSE?

COMMENTS:

NAME: Lee S Wayne DATE: Dec. 11

ADDRESS: Kirkland

PHONE: 822-5965

REPRESENTING WHOM? Tenants League of C&D

APPEARING ON WHICH PROPOSAL: CF 176-77-79

DO YOU: SUPPORT? X AMEND? Write OPPOSE? _____

COMMENTS: _____

NAME: Lurlene Grove DATE: 3/11/75

ADDRESS: 100 Meadow Drive

PHONE: 442-1488

REPRESENTING WHOM? League Women Voters

APPEARING ON WHICH PROPOSAL: HB 176, 177, 179

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: We have followed the interim work of the Commission and feel there are no major problems with these bills. We submitted formal testimony in the House but it would be a duplication of other testimony at this point.

NAME: Linny Egan DATE: March 11, 1975

ADDRESS: 3638 Rimini Lane Juneau

PHONE: 442-7009

REPRESENTING WHOM: Lower Kuskokwim School District Study Committee

APPEARING ON WHICH PROPOSAL: HB 176, 177, 179 and SB 36

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 12, 1975

The thirty-seventh meeting of the Local Government Committee was called to order by Chairman Romney on the above date in Room 410 of the Capitol at 11:07 A.M.

ROLL CALL: All members were present with the exception of Senator Cetrone who was excused.

The following witnesses were present to testify at the meeting:

Representative Gerke, sponsor of HB 176 and 177
Dale Harris, Staff Director State Study Commission
Representative South, sponsor of HB 179 and HB 536
Penny Egan, Lewis & Clark County Study Commission
B. Dean Holmes, Mayor of Miles City
Dan Mizner, Montana League of Cities and Towns

CONSIDERATION OF HOUSE BILL 536: Dale Harris explained that HB 536 was allocation of funds to local study commissions which was set out by the 1974 Legislature. The funding will be used on a matching basis and will be used for whatever costs the commissions deem necessary to determine the best forms of alternate government to be submitted to the voters. Representatives Gerke and South reiterated what Mr. Harris had said. During the presentation it was pointed out that of the $911,740 to be allocated, $52,500 was discretionary funding on the part of the commissions but $859,200 was automatically given to them.

Penny Egan and Dean Holmes supported the bill.

There were no opponents.

The Committee questioned the witnesses briefly.

CONSIDERATION OF HOUSE BILL 176: Chairman Romney offered witnesses further chance to testify for or against this bill but no one spoke.

CONSIDERATION OF HOUSE BILL 177: Again Chairman Romney offered witnesses further chance to speak on this bill but again no one spoke.

CONSIDERATION OF HOUSE BILL 179: Representative South explained that on page 6, line 16 through page 8 there were some changes referring vaguely to future laws that might be enacted with the adoption of new forms of local government. He stated that at this point they could not be specific but there had to be some reference to said laws, hence, those particular amendments. He also explained that on page 3, lines 16 and 17 there is an amendment which was put on in the House

by the Local Government Committee which is more restrictive than old language. Under old language the meaning was vague and could be applied to any labor law anyone would pass here.

There were questions from the Committee.

GENERAL DISCUSSION: At this point there was some general discussion of all bills. This discussion will be continued tomorrow on a more specific basis but the Committee did vote to not accept amendment proposed by John Bell.

DISPOSITION OF BILLS:

House Bill 536: Senator Thiessen made a motion that HB 536 BE CONCURRED IN. Seconded by Senator Murphy. Motion carried.

ADJOURN: There being no further business, the meeting was adjourned at 12:05 P.M.

Miles Ronney
MILES RONNEY

MR:cg

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

44th LEGISLATIVE SESSION 1975 Date 5/22/75

NAME	PRESENT	ABSENT	EXCUSED
MILES ROMNEY, CHAIRMAN			
V. E. CETRONE, V. CHMN.			
TERRY MURPHY			
CONNIE R. THIESSEN			
ROBERT D. WATT			
PAT M. GOODOVER			
GEORGE McCALLUM	✓		
PETER STORY	✓		

SENATE Local Government COMMITTEE

BILL _____ VISITORS' REGISTER DATE 3-12-75

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Tyler Anderson	Hill County			
Wm Lloyd	Montana Power Co	556	✓	
[illegible]	[illegible]	[illegible]		
Mary Lou	League of Women Voters	556	✓	
Henry Eggen	Lewis + Clark County Local Govt Study Comm	176, 177, 178, 556	✓	
Marian Crowe	League of Women Voters	"	✓	
Mike Mahoney	St. Comm. on Local Govt	176, 177 178, 556	✓	
Dale A. Harris	" " " " "	"		
Reg Robert Linster	[illegible]	"		
J. Egan & Lorick	City of Miles City	"	✓	
[illegible]	Lobbyist	176 177	✓	
Dick Pace	Helena City	556	✓	
Dean Zimmerman	Mt Assn of Counties			
Charles F Mahoney	Mayor	176 177		
[illegible]	City of Helena	176 177 225 226	✓ to all except 225 + 226	
[illegible]				
Don Scripps	Yellowstone Press			

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

Michael W. Schestedt

NAME: Dale Harris DATE: March 11, 1975

ADDRESS: Power Block, Helena, Montana 59601

PHONE: 449-2814

REPRESENTING WHOM? State Commission on Local Government

APPEARING ON WHICH PROPOSAL: HB 176, 177, 179 & 536

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 13, 1975

The thirty-eighth meeting of the Local Government Committee was called to order by Chairman Romney on the above date in Room 410 of the Capitol at 11:30 A.M.

ROLL CALL: All members were present with Senator Thiessen excused. Senator Watt came in at 11:30 A.M.

The following witnesses were present to testify at the meeting:

Dale Harris, Staff Director for State Study Commission
Charles Mahoney, citizen
Representative Gerke, sponsor of HB 176, 177 and 316
Dean Zinnecker, Montana Association of Counties
Ron Richards, Director of Dept of Intergovernmental Relations

CONSIDERATION OF HOUSE BILL 176: The Committee considered many amendments to HB 176 which were explained by Dale Harris. They are as follows:

1. Amend page 20, section 1, following line 2.
   Insert: "(4) Local governments that adopt this form shall have general government powers." (Leg. Council)

2. Amend page 20, section 1, following line 2.
   Insert: a new subsection as follows:
   "(4) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:
   (a) general government powers; or
   (b) self-government powers." (H. W. Gilman)

3. Amend page 24, section 1, line 24.
   Following: "vote"
   Strike: "nor take part in the discussion except by a majority vote of the town meeting"
   (Drummond Study Commission)

4. Amend page 30, section 47A-3-208, line 23-24.
   Following: "units"
   Insert: "(11) Charter forms are subject to state laws establishing election, initiative and referendum procedures and charters shall not contain provisions establishing election, initiative and referendum procedures.

   (12) The charter shall not contain provisions establishing or modifying local court systems."

   Renumber subsequent subsections.

5. Amend page 14, lines 8 through 13.
   Strike: "(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

6. Amend page 23, lines 7 through 12
   Strike: (i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

CONSIDERATION OF HOUSE BILL 177: The Committee discussed the amendments proposed by Mary Glenn on HB 177 which are as follows:

1. Amend page 6, section 3, subsection (6), line7.
   Following: "by the"
   Insert: "state of Montana to be matched by the"

2. Amend page 6, section 3, subsection (6), line 9.
   Following: "commissions."
   Strike: "The cost of printing and postage shall not be used to match the state grant to local study commissions."

Senator Romney stated he would check with JoAnn Woodgerd from the Secretary of State's Office to give him some information on mailing procedures for elections and the possibility of piggy-backing items for mailing.

CONSIDERATION OF HOUSE BILL 316: Representative Gerke explained that this bill's purpose was to change the name of the Department of Intergovernmental Relations to the Department of Community Affairs which is more applicable to the majority of the work done by the department now. They were anxious to get the bill passed so they could order the letterhead and supplies for the office which they had held in abeyyance of this bill. Don Richards from the Dept of IGR stressed the need for the legislation to be hurried through as soon as possible.

There were no opponents.

The Committee briefly questioned Mr. Richards and Representative Gerke.

DISPOSITION OF BILLS:

House Bill 176: Senator Goodover made a motion to adopt amendment no. 1.(See page 1 of minutes) Seconded by Senator Story. Motion carried.

Senator McCallum made a motion to adopt amendment no. 5. (See page 2 of minutes) Seconded by Senator Story. Motion did not carry.

Senator Cetrone made a motion to adopt amendment no. 4. (See page 1 of minutes) Seconded by Senator Goodover. Motion carried.

Senator Murphy made a motion that HB 176 AS AMENDED BE CONCURRED IN. Seconded by Senator Goodover. Motion carried.

House Bill 316: Senator Watt made a motion that HB 316 BE CONCURRED IN. Seconded by Senator Murphy. Motion carried.

ADJOURN: There being no further business, the meeting was adjourned at 12:15 P.M.

Miles Romney

MILES ROMNEY, Chairman

MR:dg

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

44th LEGISLATIVE SESSION 1975 Date 5 18 75

NAME	PRESENT	ABSENT	EXCUSED
MILES ROMNEY, CHAIRMAN			
V. E. CETRONE, V. CHMN.			
TERRY MURPHY			
CONNIE R. THIESSEN			✓
ROBERT F. WATT	11:50		
T M. GOODOVER			
GEORGE McCALLUM			
PETER STORY			

SENATE Local Government COMMITTEE

BILL _____ VISITORS' REGISTER DATE 3-13

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Jolene Lublin	City of Helena	176 133	~ amend	
Penny Eggers	Lewis Clark County Study Comm	176		
Bruce Skaar	City of Miles City	176	✓	
K Cole	HR	176	✓ amend	
Charles D Molony	Myself	176		
Willa Hall	Myself	176 197	✓	
Jane Lloyd	Montana Women Voters Lobby	"	✓	
Ken Lucas	Jefferson Co. Comm.			
Dick Pace	Virginia City	3.183		
Richard W Schuttell	State Coun. of Local Govs	HB 176, 133, 3rd	✓	

STANDING COMMITTEE REPORT

March 19 19 75

MR. P PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration [redacted] Bill No. 176

Respectfully report as follows: That [redacted] Bill No. 176,
Third reading, be amended as follows:

1. Amend page 20, section 1, line 2.
   Following: line 2
   Insert: "(4) Local governments that adopt this form shall have general government powers."

2. Amend page 30, section 1, line 23.
   Following: "units."
   Insert: "(11) Charter forms are subject to state laws establishing elections, initiative and referendum procedures and charters shall not contain provisions establishing election, initiative and referendum procedures.

   (12) The charter shall not contain provisions establishing or modifying local court systems."
Renumber subsequent subsections.

AND AS SO AMENDED, BE CONCURRED IN

[redacted]

MILES ROMNEY Chairman.

STATE PUB. CO.
Helena, Mont.

Michael W. Seiestedt

NAME: Dale Harris DATE: March 13, 1975

ADDRESS: Power Block, Helena, Montana 59601

PHONE: 449-2814

REPRESENTING WHOM? State Commission on Local Government

APPEARING ON WHICH PROPOSAL: HB 176, 177, 179, 316

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 17, 1977 Session Bill No. 176 Time 11:30

ROLL	YES	NO
V. E. CETRONE, VICE CHAIRMAN		
TERRY MURPHY	✓	
CONNIE R. THIESSEN		
ROBERT D. MATT		
PAT M. GOODOVER	✓	
GEORGE McCALLUM	Excused	
PETER STORY		
MILES ROMNEY, CHAIRMAN		

Secretary

Chairman

Motion: Adopt Executive Amendments

Amendments prepared by Legislative Council

(include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 13 1985 Session Bill No. 176 Time 11:32

ROLL	YES	NO
V. E. CETRONE, VICE CHAIRMAN	-	
TERRY MURPHY	-	
CORNIE R. THIESSEN	-	
HERBERT D. WATT	-	
PAT M. GOODOVER	-	
GEORGE McCALLUM	-	
PETER STORY	-	
MILES ROMNEY, CHAIRMAN	-	

Secretary

Chairman

Motion: Do amended and Engrossed

(Include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 13 1975 Room Bill No. 76 Time 1:55

NAME	YES	NO
V. E. CETRONE, VICE CHAIRMAN		
TERRY MURPHY		
CONNIE R. THIESSEN		
ROBERT D. WATT		
PAT M. GOODOVER		
GEORGE McCALLUM		
PETER STORY		
MILES ROMNEY, CHAIRMAN		

Secretary

Chairman

Motion: Adopt - Clerks amendment. page 3C, section 472.3-204 lines 23 and 24.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 15 1975 House Bill No. 176 Time

NAME	YES	NO
V. E. CETRONE, VICE CHAIRMAN		✓
TERRY MURPHY		✓
CONNIE R. THIESSEN		
ROBERT D. WATT		✓
PAT M. GOODOVER		✓
GEORGE McCALLUM		
PETER STORY	✓	
MILES ROMNEY, CHAIRMAN	✓	

Secretary

Chairman

Motion: Do pass as amended H 176 be adopted

HOUSE BILL NO. 176

INTRODUCED BY GEBKE, MCKITTRICK, DRISCOLL, MELOY, FAGG, KIMBLE, LOCKREM, EARKS, SOUTH, GWYNN, BARDANOUVE, O'CONNELL, BRADLEY, HAGER, HOLMES, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE ALTERNATIVE FORMS OF LOCAL GOVERNMENT PARTIALLY IMPLEMENTING ARTICLE XI, SECTIONS 3 AND 5 OF THE 1972 MONTANA CONSTITUTION AND PROVIDING FOR A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. Title 47A, Part 3, Chapter 2 that reads as follows:

PART 3, CHAPTER 2

ALTERNATIVE FORMS OF LOCAL GOVERNMENT

47A-3-201. Declaration of purpose. (1) The purpose of this chapter is to comply with Article XI, section 3 (1), of the Montana constitution, which provides: "The legislature shall provide such optional or alternative forms of government that each unit or combination of units may adopt, amend, or abandon an optional or alternative form by a majority of those voting on the question."

(2) This chapter establishes the alternative forms of government for cities, towns, counties, and consolidated governments. This chapter shall be liberally construed to facilitate the adoption of a form of local government. The procedure to adopt, amend, or abandon these forms is provided in sections 16-5101 et. seq.

47A-3-202. Adoption of alternative forms. Each local government in the state shall adopt one of the alternative forms of government provided for in this chapter including one of each sub-option authorized: the commission-executive form (which may also be called the "council-executive", the "council-mayor", or the "commission-mayor" form), the commission-manager form (which may also be called the "council-manager" form), the commission form, the commission-chairman form, the town meeting form, or the charter form.

47A-3-203. Commission-executive form. (1) The commission-executive form (which may be called the "council-executive", the "council-mayor", or the "commission-mayor" form) consists of an elected commission (which may be referred to as the "council" and one elected executive (who may be referred to as the "mayor") who is elected at large.

(2) The executive shall:

(a) enforce laws, ordinances, and resolutions;

(b) perform duties required of him by law, ordinance, or resolution;

(c) administer affairs of the local government;

~~(d) direct, supervise, and administer all departments,~~

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~~agencies, and offices of the local government, except as otherwise provided by law or ordinance;~~

~~(e)~~ (D) carry out policies established by the commission;

~~(f)~~ (E) recommend measures to the commission;

~~(g)~~ (F) report to the commission on the affairs and financial condition of the local government;

~~(h)~~ (G) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

~~(i)~~ (H) report to the commission as the commission may require;

~~(j)~~ (I) attend commission meetings and may take part in discussions;

~~(k)~~ (J) execute the budget adopted by the commission;

~~(l)~~ (K) appoint, with the consent of the commission, all members of boards; except, the executive may appoint without the consent of the commission temporary advisory committees established by the executive.

(3) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) The executive:

(i) shall appoint one or more administrative

assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the executive; or

(ii) may appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the executive.

(b) The executive may:

(i) appoint and remove all employees of the local government; or

(ii) appoint and remove, with the consent of a majority of the commission, all employees of the local government; or

(iii) appoint, with the consent of a majority of the commission, all department heads. The executive may remove department heads and may appoint and remove all other department employees; or

(iv) appoint and remove, with the consent of a majority of the commission, all department heads. The executive may appoint and remove all other employees of the local government.

(c) The executive may:

(i) veto ordinances and resolutions, subject to override by a majority plus one of the whole number of the commission; or

(ii) veto ordinances and resolutions, subject to

override by a two-thirds vote of the commission; or

(iii) sign all ordinances and resolutions with no veto power.

(d) The executive may:

(i) prepare the budget and present it to the commission for adoption; or

(ii) prepare the budget in consultation with the commission and department heads.

(e) The executive may:

(i) exercise control and supervision of the administration of all departments and boards; or

(ii) exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

(f) A financial officer (who may be called the "treasurer"):

(i) shall be elected; or

(ii) shall be appointed by the executive with the consent of the council; or

(iii) shall be selected as provided by ordinance; or

(iv) may, at the discretion of the commission, be selected as provided by ordinance.

(g) The commission shall be:

(i) elected at large; or

(ii) elected by districts in which candidates must

reside and which are apportioned by population; or

(iii) nominated by districts in which candidates must reside and which are apportioned by population, but elected at large; or

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(h) Local government elections shall be conducted on a:

(i) partisan basis as provided in this title; or

(ii) non-partisan basis as provided in this title.

(i) The commission shall have a chairman who shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) selected as provided by ordinance.

(j) The presiding officer of the commission shall be:

(i) the chairman of the commission who may vote as other members of the commission; or

(ii) the executive who may vote as the commissioners; or

(iii) the executive who shall decide all tie votes of the commission, but shall have no other vote. The chairman of the commission shall preside if the executive is absent; or

(iv) the executive, but he may not vote.

(k) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(l) The size of the commission, which shall be a number not less than three (3), shall be established when the form is adopted by the voters, and;

(i) community councils of at least three (3) members shall be elected within each district to advise the comissioner from that district. Local governments conducting elections at large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(m) The term of office of elected officials may not exceed four (4) years, and shall be established when the form is adopted by the voters.

(4) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(a) general government powers; or

(b) self-government powers.

47A-3-204. Commission-manager form. (1) The commission-manager form (which may be called the "council-manager" form) consists of an elected commission (which may

be called the "council") and a manager appointed by the commission who shall be the chief administrative officer of the local government. The manager shall be responsible to the commission for the administration of all local government affairs placed in his charge by law, ordinance, or resolution.

(2) The manager shall be appointed by the commission for an indefinite term on the basis of merit only, and removed only by a majority vote of the whole number of the commission.

(3) The manager shall:

(a) enforce laws, ordinances, and resolutions;

(b) perform the duties required of him by law, ordinance, or resolution;

(c) administer the affairs of the local government;

(d) direct, supervise, and administer all departments, agencies and offices of the local government unit except as otherwise provided by law or ordinance;

(e) carry out policies established by the commission;

(f) prepare the commission agenda;

(g) recommend measures to the commission;

(h) report to the commission on the affairs and financial condition of the local government;

(i) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of

the commission;

(j) report to the commission as the commission may require;

(k) attend commission meetings and may take part in the discussion, but he may not vote;

(l) prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;

(m) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance. Employees appointed by the manager and his subordinates shall be administratively responsible to the manager;

(n) appoint members of temporary advisory committees established by the manager.

(4) Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of his subordinates are empowered to appoint.

(5) Except for the purpose of inquiry or investigation under this title, the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager, solely through the manager, and neither the commission nor its members may give orders to any such employee, either publicly or privately.

(6) The plan of government submitted to the qualified

electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) All members of boards, other than temporary advisory committees established by the manager, shall be appointed by:

(i) the chairman with the consent of the commission; or

(ii) the manager with the consent of the commission; or

(iii) the commission.

(b) The commission shall be:

(i) elected at large; or

(ii) elected by districts in which candidates must reside and which are apportioned by population; or

(iii) nominated by districts in which candidates must reside and which are apportioned by population, but elected at large; or

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(c) Local government elections shall be conducted on a:

(i) partisan basis as provided in this title; or

(ii) non-partisan basis as provided in this title.

(d) The chairman of the commission shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) elected by the qualified electors for a term of office; or

(iii) selected as provided by ordinance.

(3) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(f) The size of the commission, which shall be a number of not less than three (3), shall be established when the form is adopted by the voters, and:

(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(g) The term of office of elected officials may not exceed four (4) years, and shall be established when the form is adopted by the voters.

(7) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(a) general government powers; or

(b) self-government powers.

47A-3-205. Commission form. (1) The commission form consists of an elected commission (which may also be called the "council") and other elected officers as provided in this section. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by ordinance the executive and administrative powers and duties into departments headed by individual commissioners.

(2) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) The commission shall be:

(i) elected at large; or

(ii) elected by districts in which candidates must reside and which are apportioned by population; or

(iii) nominated by districts in which candidates must reside and which are apportioned by population, but elected at large; or

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(b) Local government elections shall be conducted on a:

(i) partisan basis as provided in this title; or

(ii) non-partisan basis as provided in this title.

(c) The chairman of the commission, who may be referred to as the "mayor", shall be the presiding officer of the commission. All members of boards and committees shall be appointed by the chairman with the consent of the commission. The chairman shall be recognized as the head of the local government unit and may vote as other members of the commission. The chairman shall be:

(i) elected by the members of the commission from their own number for a term established by ordinance; or

(ii) selected as provided by ordinance; or

(iii) elected directly by the voters for a term established by ordinance.

(d) The commission:

(i) shall appoint one or more administrative assistants to assist them in the supervision and operation of the local government; or

(ii) may appoint one or more administrative assistants to assist them in the supervision and operation of the local

government.

(e) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(f) The size of the commission, which shall be a number of not less than three (3), shall be established when the form is adopted by the voters, and:

(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(g) The term of office of elected officials may not exceed four (4) years, except the term of office for commissioners in counties adopting the form authorized by Article XI, section 3 (2), of the Montana constitution, may not exceed six (6) years. Terms of office shall be established when the form is adopted by the voters.

(3) In county and consolidated local governments, the plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below.

The officers shall have the powers and duties established by ordinance. After the establishment of any office, the commission may consolidate, as provided by law, two or more of the offices.

(a) A legal officer (who may be called the "county attorney"):

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as PROVIDED by ordinance; or

(vi) shall not be included in this form as a separate office.

(b) A law enforcement officer (who may be called the "sheriff"):

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be

selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(c) A clerk and recorder:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(d) A clerk of district court:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(e) A treasurer:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(f) A surveyor:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(g) A superintendent of schools:

(i) shall be elected; or

(ii) shall be appointed by the local government

commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(h) An assessor:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(i) A coroner:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(j) A public administrator:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(k) An auditor:

(i) shall be elected; or

(ii) shall be appointed by the local government commission; or

(iii) shall be appointed by the chairman of the local government commission; or

(iv) shall be selected as provided by ordinance; or

(v) may at the discretion of the commission be selected as provided by ordinance; or

(vi) shall not be included in this form as a separate office.

(4) LOCAL GOVERNMENTS THAT ADOPT THIS FORM SHALL HAVE GENERAL GOVERNMENT POWERS.

47A-3-206. Commission-chairman form. (1) The commission-chairman form consists of an elected commission (which may also be referred to as the "council"), and a commission chairman (who may also be referred to as "mayor" or as "president") elected by the members of the commission from their own number.

(2) The commission chairman (who may also be referred to as "mayor") shall be elected by the members of the commission from their own number to serve at the pleasure of the commission. He shall: be the presiding officer of the commission, be recognized as the head of the local government unit, have the power to vote as other members of the commission, be the chief executive officer of the local government, and:

(a) enforce laws, ordinances, and resolutions;

(b) perform duties required of him by law, ordinance, or resolution;

(c) administer the affairs of the local government;

(d) direct, supervise, and administer all departments, agencies, and offices of the local government, except as otherwise provided by law or ordinance;

(e) carry out policies established by the commission;

(f) prepare the commission agenda;

(g) recommend measures to the commission;

(h) report to the commission on the affairs and financial condition of the local government;

(i) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

(j) report to the commission as the commission may require;

(k) attend commission meetings and may take part in discussions;

(l) execute the budget adopted by the commission;

(m) appoint with the consent of the commission all members of boards and committees; except the chairman may appoint without the consent of the commission temporary advisory committees established by the chairman;

(n) appoint with the consent of a majority of the commission all department heads. The chairman may remove department heads and may appoint and remove all other employees;

(o) prepare the budget and present it to the commission for adoption;

(p) exercise control and supervision over the administration of departments and boards.

(3) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) The commission shall be:

(i) elected at large; or

(ii) elected by districts in which candidates must reside and which are apportioned by population; or

(iii) nominated by districts in which candidates must reside and which are apportioned by population, but elected at large; or

(iv) elected by any combination of districts in which candidates must reside and which are apportioned by population, and at large.

(b) Local government elections shall be conducted on a:

(i) partisan basis as provided in this title; or

(ii) non-partisan basis as provided in this title.

(c) The commission chairman:

(i) shall appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the chairman; or

(ii) may appoint one or more administrative assistants to assist him in the supervision and operation of the local

government. Such administrative assistants shall be answerable solely to the chairman.

(d) Commission members shall be elected for:

(i) concurrent terms of office; or

(ii) overlapping terms of office.

(e) The size of the commission, which shall be a number of not less than five (5), shall be established when the form is adopted by the voters, and:

(i) community councils of at least three (3) members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at-large shall district according to population for the purpose of electing community councils; or

(ii) community councils to advise commissioners may be authorized by ordinance.

(f) The term of office of elected officials may not exceed four (4) years, and shall be established when the form is adopted by the voters.

(4) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(a) general government powers; or

(b) self-government powers.

47A-3-207. Town meeting form. (1) The town meeting

form consists of an assembly of the qualified electors of a town (known as a town meeting), an elected town chairman, who shall be a qualified elector, and an optional elected town meeting moderator. The town meeting form may be adopted only by incorporated cities or towns of less than two thousand (2,000) persons as determined by the most recent decennial census as conducted by the United States bureau of the census unless a more recent enumeration of inhabitants be made by the state, in which case such enumeration shall be used for the purposes of this section. Any unit of local government which adopts this form may retain it even though its population increases to more than two thousand (2,000).

(2) All legislative powers of the town shall vest in the town meeting. The town meeting may enact rules, resolutions, and ordinances.

(3) (a) Towns adopting this form shall convene an annual town meeting on the first Tuesday of March. Special town meetings may be called by the town chairman or upon petition of ten percent (10%) of the qualified electors of the town, but in no case by less than ten (10) qualified electors.

(b) All qualified electors of the town may attend the town meeting, take part in the discussion and vote on all matters coming before the town meeting. Others may attend

but shall not vote nor take part in the discussion except by a majority vote of the town meeting.

(c) A quorum shall consist of at least ten percent (10%) of the qualified electors of the town but a higher quorum requirement may be established by a majority vote of the town meeting.

(d) The election of town officials shall be non-partisan and shall be by a plurality of those qualified electors present and voting. All other voting in the town meeting shall be by a simple majority of those qualified electors present and voting.

(e) Election of officials shall be by secret ballot. Other voting shall be by secret ballot upon the request of at least five members of the town meeting.

(4) An agenda of the town meeting and a list of all elective and appointive offices to be filled shall be prepared by the town chairman who shall post notice at least two (2) weeks prior to the convening of all annual and special town meetings. Upon written petition of at least ten percent (10%) of the qualified electors of the town, but not less than ten (10) qualified electors, the town chairman shall insert a particular item or items in the agenda for the next annual or special town meeting. The town meeting agenda may include an item entitled "other business" under which any matter may be considered by the town meeting

except no matter dealing with finance or taxation shall be considered under "other business".

(5) The town meeting shall elect a town chairman for a term of not less than one (1) year or more than two (2) years. An unexpired term of a town chairman shall be filled at the next annual or special town meeting.

(6) The town chairman shall be the chief executive officer of the town and he shall:

(a) enforce laws, ordinances, and resolutions;

(b) perform duties required of him by law, ordinance, or resolution;

(c) administer the affairs of the town;

(d) prepare the town meeting agenda;

(e) attend all annual and special town meetings;

(f) recommend measures to the town meeting;

(g) report to the town on the affairs and financial condition of the town;

(h) execute bonds, notes, contracts, and written obligations of the town, subject to the approval of the town;

(i) appoint, with the consent of the town meeting, members of all boards and appoint and remove all employees of the town;

(j) prepare the budget and present it to the town meeting for adoption;

(k) exercise control and supervision of the administration of all departments and boards;

(l) carry out policies established by the town meeting.

(7) Compensation of the town chairman shall be established by ordinance but shall not be reduced during the current term of the town chairman.

(8) Permanent committees to advise the town chairman and/or the town meeting may be established and dissolved by ordinance. The town chairman may establish temporary committees to advise him.

(9) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed below:

(a) The town meeting shall:

(i) elect a town meeting moderator for a term of one (1) year who shall be the presiding officer of all annual and special town meetings but who shall have no other governmental powers; or

(ii) designate the town chairman as presiding officer of all annual and special town meetings.

(b) The town chairman:

(i) shall appoint an administrative assistant to assist him in the supervision and operation of the affairs

of the town. The administrative assistant shall be answerable solely to the town chairman and the town chairman may delegate powers to the administrative assistant at his discretion; or

(ii) may appoint an administrative assistant to assist him in the supervision and operation of the affairs of the town. The administrative assistant shall be answerable solely to the town chairman and the town chairman may delegate powers to the administrative assistant at his discretion.

(10) The first agenda of the first town meeting following the adoption of this form shall be established by the local study commission. At that town meeting the chairman of the local study commisssion shall preside over the election of the presiding officer of the town after which the presiding officer of the town shall preside.

(11) The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(a) general government powers; or

(b) self-government powers.

47A-3-208. Charter form. (1) The purpose of this section is to comply with Article XI, section 5 (1), of the Montana constitution, which provides: "(1) The legislature shall provide procedures permitting a local government unit

or combination of units to frame, adopt, amend, revise, or abandon a self-government charter with the approval of a majority of those voting on the question. The procedures shall not require approval of a charter by a legislative body."

(2) Charter provisions establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

(3) A charter form of government shall possess self-government powers.

(4) Charter form of government shall be established by a charter which is a written document defining the powers, structures, privileges, rights, and duties of the unit or local government and limitations thereon.

(5) The charter shall provide for an elected legislative body, called a commission or council, or shall provide for a legislative body comprised of all qualified electors. For elected legislative bodies the charter shall specify the number of members thereof, their term of office, ~~the method of their election~~ ELECTION ON A PARTISAN OR NON-PARTISAN BASIS, the grounds for their removal, and the method for filling vacancies.

(6) The charter shall provide for the ~~election and nomination~~ NOMINATION AND ELECTION of commissions at-large, or by districts in which candidates must reside and which

are apportioned by population, or by a combination of districts in which candidates must reside and which are apportioned by population and at-large.

(7) The charter shall specify which official of the local government will be the chief administrative and executive officer, the method of his selection, his term of office, except that it may be at the pleasure of the selecting authority if such officer is not elected by popular vote, the grounds for his removal, and his powers and duties. Notwithstanding the foregoing, the charter may allocate the chief executive and the chief administrative functions among two or more officials specified as above, or the charter may provide that chief executive and administrative functions of the local government will be performed by one or more members of the legislative body.

(8) The charter may establish other legislative, administrative, and organizational structures.

(9) A charter form of government shall have such officers, departments, boards, commissions, and agencies as are established in the charter, by local ordinance, or required by state law.

(10) Charter provisions may not conflict with the provisions of Title 47-A, ~~part~~ PART 7 which establish statutory limitations on the powers of self-government units.

(11) CHARTER FORMS ARE SUBJECT TO STATE LAWS ESTABLISHING ELECTION, INITIATIVE AND REFERENDUM PROCEDURES AND CHARTERS SHALL NOT CONTAIN PROVISIONS ESTABLISHING ELECTION, INITIATIVE AND REFERENDUM PROCEDURES.

(12) THE CHARTER SHALL NOT CONTAIN PROVISIONS ESTABLISHING OR MODIFYING LOCAL COURT SYSTEMS.

~~(11)~~ (13) The enumeration of powers in a charter shall not be construed as a limitation or prohibition on the residual or self-governing powers granted by the constitution.

~~(12)~~ (14) The charter may contain prohibitions on the exercise of power by a unit of local government.

~~(13)~~ (15) The charter may include such provisions as may be necessary to permit an orderly transition to the new form of government.

~~(14)~~ (16) The charter shall specify the date on which the charter will take effect, except that provisions may be made for temporary partial effectiveness consistent with an orderly transition of government.

~~(15)~~ (17) The listing of charter provisions in this section shall not be construed to prevent the inclusion of additional provisions in charters.

~~(16)~~ (18) A charter may be amended only as provided by state law.

Section 2. Severability. If a part of this act is

invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 3. Effective date. This act is effective May 2, 1977.

-End-